



Paper No. 10

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OFFICE OF PETITIONS

In re Application of
Peter R. Horsfall
Application No. 09/942,426
Filed: August 29, 2001
Attorney Docket No. E3879.0030/P030

DECISION ON PETITION

This is a decision on the petition filed on August 14, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 2, 2001. This Notice set a period for reply of two (2) months from the mail date of the Notice. Petitioner responded on January 31, 2002 by submitting an executed declaration and the surcharge for its late filing.¹ However, the Initial Patent Examination Division mailed petitioner a Notice of Incomplete Reply on July 8, 2002. The Notice of Incomplete Reply required that petitioner submit substitute drawings, as was originally required by the Notice to File Missing Parts of Nonprovisional Application. The Notice of Incomplete Reply set a period for response as originally set forth by the Notice to File Missing Parts. Because petitioner failed to file substitute drawings with an extension of time, the above-identified application became abandoned on February 3, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner filed substitute drawings, paid the petition fee, and made the proper statement of unintentional delay under 37 CFR 1.137(b).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1560 extension of time fee submitted with the petition on August 14, 2002 was subsequent to the maximum period obtainable for reply (May 2, 2002), this fee will be refunded to petitioner under separate cover.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the

¹ Made timely because applicant obtained a two month extension of time.

petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Dickstein, Shapiro, Morin & Oshinsky LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND										
1 Date of Request: <u>9/9/02</u>		2 Serial/Patent # <u>09/942,426</u>								
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT						
	Filing			\$						
	Amendment			\$						
<input checked="" type="checkbox"/>	Extension of Time	7	8/14/02	\$ 1,560.00						
	Notice of Appeal/Appeal			\$						
	Petition			\$						
	Issue			\$						
	Cert of Correction/Terminal Disc.			\$						
	Maintenance			\$						
	Assignment			\$						
	Other			\$						
		7 TOTAL AMOUNT OF REFUND		\$1,560.00						
		8 TO BE REFUNDED BY: <u>CC</u>								
10 REASON:		<input checked="" type="checkbox"/> Treasury Check								
	Overpayment	Credit Deposit A/C #:								
	Duplicate Payment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px; text-align: center;">--</td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>					--			
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<input checked="" type="checkbox"/>	No Fee Due (Explanation):									
<p>Petitioner tried to purchase an extension of time beyond the maximum period available for reply</p>										
11 REFUND REQUESTED BY:										
TYPED/PRINTED NAME: <u>Cliff Congo</u>		TITLE: <u>Petitions Attorney</u>								
SIGNATURE: <u>[Signature]</u>		PHONE: <u>305-0272</u>								
OFFICE: <u>Petitions</u>										
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****										
APPROVED: <u>[Signature]</u>		DATE: <u>9/10/02</u>								

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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